

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DANIEL GALLAGHER,)
)
Plaintiff,)
)
vs.) Case No. 4:24-cv-00159-MTS
)
STEPHEN EDWARD COOPER, *et al.*,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs. Doc. [3]. Having reviewed Plaintiff's Application and inmate account statement,* the Court will grant the Application and assess an initial partial filing fee of five dollars and ninety-six cents (\$5.96). *See* 28 U.S.C. § 1915(b)(1). Plaintiff shall pay the initial partial filing fee no later than Friday, July 5, 2024. Failure to do so will result in the dismissal of this action without further notice. *See In re Smith*, 114 F.3d 1247, 1251 (D.C. Cir. 1997) (noting that, under the Prison Litigation Reform Act, the failure to pay the initial partial filing fee required by 28 U.S.C. § 1915(b)(1) may result in dismissal of a prisoner's action (citing *Ayo v. Bathey*, 106 F.3d 98, 101 (5th Cir. 1997) (per curiam))); *see also Hutchins v. A.G. Edwards & Sons, Inc.*, 116 F.3d 1256, 1259 (8th Cir. 1997) ("A district court has the power to

* Plaintiff failed to submit a copy of his certified prison account statement in this action. Nevertheless, Plaintiff filed a companion case in the United States District Court for the Eastern District of Missouri on January 18, 2024, *Gallagher v. Coleman*, No. 4:24-cv-00096-RLW (E.D. Mo.), in which he filed his account statement. Accordingly, the Court takes judicial notice of the account statement for use in this action.

dismiss a litigant's cause of action when the litigant fails to comply with the court's orders.”).

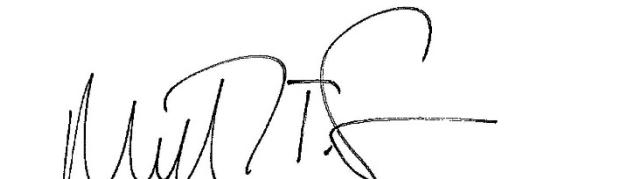
Plaintiff then will be required to make monthly payments in accordance with 28 U.S.C. § 1915(b)(2) until the full \$405 filing fee is paid. *See Ashley v. Dilworth*, 147 F.3d 715, 716 (8th Cir. 1998) (per curiam) (explaining that prisoner-litigants must “pay filing fees in full, with the only issue being whether the inmate pays the entire filing fee at the initiation of the proceeding or in installments over a period of time”).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs, Doc. [3], is **GRANTED**.

IT IS FURTHER ORDERED that the Plaintiff shall pay an initial partial filing fee of five dollars and ninety-six cents (\$5.96) no later than Friday, July 5, 2024. Plaintiff shall make his remittance payable to “Clerk, United States District Court,” and include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding. *See* 28 U.S.C. § 1915(b)(1).

Dated this 7th day of June 2024.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE